

AMENDED IN SENATE JUNE 22, 2009

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 919

Introduced by Assembly Member Nava

February 26, 2009

An act to add Section 2948.2 to the Civil Code, *and to amend Section 27288.1 of the Government Code*, relating to mortgages.

LEGISLATIVE COUNSEL'S DIGEST

AB 919, as amended, Nava. Mortgages: information and recordation.

Upon a breach of the obligation of a mortgage or transfer of an interest in property, in order to exercise a power of sale, existing law requires the trustee, mortgagee, or beneficiary to record in the office of the county recorder in the county where the mortgaged or trust property is situated, a notice of default. Existing law provides a form for a mortgage of real property. Existing law requires a county recorder, upon proper payment, to accept any instrument authorized by statute to be recorded, provided that it meets specified requirements. Existing law requires certain documents relating to real property that are to be recorded to contain specified information.

This bill would require a mortgage or deed of trust that is secured by residential real property, as defined, to have an attached ~~rider~~ *Residential Mortgage Participant Rider form, as set forth*, that identifies by name any appraiser, lender, loan originator, and real estate broker, as defined, who were involved in the origination of the mortgage or deed of trust and his or her professional license number, if any. The bill would ~~void~~

~~a mortgage or deed of trust secured by residential real property that fails to include this rider prohibit the county recorder from accepting a mortgage or deed of trust for recordation if a Residential Mortgage Participant Rider form is not included. By creating a duty for a county recorder to examine a mortgage or deed of trust to establish if a completed rider has been included, this bill would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2948.2 is added to the Civil Code, to
- 2 read:
- 3 2948.2. (a) A mortgage or deed of trust that is secured by
- 4 residential real property shall have attached a *fully completed and*
- 5 *signed Residential Mortgage Participant Rider form, as set forth*
- 6 *in subdivision (d). A Residential Mortgage Participant Rider is a*
- 7 *mortgage rider that identifies by name any of the following parties*
- 8 *who participated in the origination of the mortgage or deed of trust*
- 9 *and his or her professional license number, if any:*
- 10 (1) Appraiser.
- 11 (2) Lender.
- 12 (3) Loan originator.
- 13 (4) Real estate broker.
- 14 (b) *If a transaction does not include any of the parties listed in*
- 15 *subdivision (a), the Residential Mortgage Participant Rider shall*
- 16 *indicate that the participant type is not applicable.*
- 17 ~~(b)~~
- 18 (c) For purposes of this section:

(1) “Appraiser” means a person who is, or should be, licensed under Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code.

(2) “Lender” means the secured creditor or creditors named in the debt obligation and document creating the lien.

(3) “Loan originator” means a person who, for compensation or gain or in the expectation of compensation or gain, takes a residential mortgage application or offers or negotiates the terms or a residential mortgage loan. “Loan originator” does not include:

(A) A person engaged solely as a loan processor or underwriter.

(B) A person or entity that performs only real estate brokerage activities and is licensed or registered in accordance with California law, unless the person or entity is compensated by a lender, a mortgage broker, a loan originator, or by any agent of those parties.

(C) A person or entity that is involved solely in an extension of credit relating to a timeshare plan as defined in Section 101 of Title 11 of the United States Code.

(4) “Residential mortgage loan” means a credit transaction that is secured by residential real property that is improved by four or fewer residential units.

(5) “Residential real property” means real property that is improved by four or fewer residential units.

~~(e) A mortgage or deed of trust that is secured by residential real property that does not have the attached rider required by this section is void.~~

(d) The Residential Mortgage Participant Rider required pursuant to this section, shall be in substantially the following form:

Residential Mortgage Participant Rider

(To be recorded with Mortgage or Deed of Trust pursuant to Section 2948.2 of the Civil Code.)

Residential real property address: _____

<i>Participant</i>	<i>Name</i>	<i>Professional License Number</i>
<i>Appraiser(s)</i>		

<input type="checkbox"/> Not Applicable*		
Lender(s)		
<input type="checkbox"/> Not Applicable*		
Loan originator(s)		
<input type="checkbox"/> Not Applicable*		
Real estate broker(s)		
<input type="checkbox"/> Not Applicable*		

*Note: In the event that a transaction does not include any of the participants listed in the table above, the box marked "Not Applicable" must be checked in order for the form to be complete.

Form Completed by _____ Date: _____
 (Signed)

 (Printed)

SEC. 2. Section 27288.1 of the Government Code is amended to read:

27288.1. (a) All documents described in this section now or hereafter authorized by law to be recorded in the official records of a county shall contain the following information in addition to any information as may be required by law pertaining to the particular document:

(a)

(1) If the document effects or evidences a transfer or encumbrance of an interest in real property, the name or names in which the interest appears of record, except that a notice of assessment recorded pursuant to Section 3114 of the Streets and Highways Code, a notice of special tax lien recorded pursuant to Section 3114.5 of the Streets and Highways Code, and a notice of award of contract recorded pursuant to Section 5248 of the Streets and Highways Code, shall show the name or names of the assessed owners as they appear on the latest secured assessment roll.

~~(b)~~

(2) If the document releases or terminates any interest, right or encumbrance, it shall contain or have appended thereto all of the names of those persons and entities owning the title or interest being relieved by the document, or the names of the owners of that title or interest as they appeared at the time and in the document creating the interest, right or encumbrance.

~~(e)~~

(3) In cases where the county tax collector is filing purchaser's deeds with respect to a sale for defaulted taxes, those documents shall be deemed to constitute compliance with this section.

(b) No document subject to this section shall be recorded or indexed in the official records of a county unless it contains the information required by this section as well as any additional information required by law pertaining to the particular document, *including, but not limited to, the Residential Mortgage Participant Rider form required by Section 2948.2 of the Civil Code*, but the recorder may rely upon the information contained in, or appended to, the document being offered for record. The failure of any document to include all of the names required by this section shall not affect the constructive notice which would otherwise be afforded by the recording of the document. This section shall not apply to a vacation or abandonment by a public agency of a public highway or road.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CORRECTIONS:

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